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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,880	05/25/2001	Gustav Tappe	LE 00 022	8018

23416 7590 06/19/2002

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EXAMINER

LE, HOA VAN

ART UNIT	PAPER NUMBER
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1752

DATE MAILED: 06/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,880

Applicant(s)

TAPPE ET AL

Examiner

HOA VAN LE

Group Art Unit

1752

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 13-28 is/are pending in the application.
- Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 13-28 with respect to the elected and applied species is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 13-28 are subject to ~~restriction or~~ election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) _____.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 04 and 05
- ☐ Interview Summary, PTO-413
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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This application is before the examiner for consideration on the merits.

I. Claims 13-28 are generic to a plurality of disclosed patentably distinct species comprising phosphate, polyphosphate, polyphosphonate, nitrite and bromide. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species, even though this requirement is traversed.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

II. Mr. Ashley I. Pezzner elects phosphate species on May 28, 2002. The elected phosphate species has been considered and searched. During the course of consideration and search for the elected phosphate species, other non-elected species may be in the same applied references. Other non-elected species have not been fully considered, searched or examined until the elected and applied species are overcome.

III. The instantly claimed invention is related to a beach-fixing composition with a full water concentration to be readily used and in a reduced water form for storage or transportation which

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have not been considered to be patentably different or distinct. Therefore, no restriction or separate consideration or search or examination is made unless applicants show or urge otherwise in the next response to this Office action in order of it to be considered timely, a proper restriction will be made as shown or urged by applicants for a record.

IV. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

(f) he did not himself invent the subject matter sought to be patented.

Claims 13-28 with respect to the elected and applied species are rejected under 35 U.S.C. 103(a) as being unpatentable over Papai (6,221,570), (provisionally with Papai's allowed application Serial No. 09/715,612 which is equivalent to WO 01/50196 as submitted by applicants) considered in view of Meckl et al (3,293,036), Ohkubo et al (3,591,380), Williams et al (3,702,247) and Schranz et al (3,879,203).

It is conventional or well known in the art to make or obtain a concentrating composition for storage or transportation and dilute the concentrating composition with water to make or obtain a diluted composition for using. It is also well known or conventional in the art to obtain a bleach-fixing composition which must contain a bleaching agent such as ferric salt of a

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polyaminocarbonic acid and a fixing agent such as thiosulfate. The bleach-fixing composition usually contain the conventional or well known additives such as a sulfite stabilizing agent (which is also known as a quick fixing agent, especially with low solubility of a photographic material containing silver chloride grains), well known buffering agents such as phosphates or substitutions and re-halogenating agent such as bromide. Please see the whole disclosure of each of the applied references, especially in Papai '570 at col.5:11 to 6:47, 7:39 to 8:52. Papai '196 at page 7:27 to 8:2 and 33 to 9:7 and 25 to 11:26, 13:32 to 11:13 to 15:17, 16:9 to 17:2 and 20-22. Meckl et al is cited to show a ready-to-use bleach-fixing composition containing the same requisite chemical ingredients and the well known additives and their relative proportions as those in the concentrating one except more water, especially in Meckl et al at col.2:58 and 3:2 and 26-35. The same is with Ohkubo et al at col.2:54 to 3:12, 4:35-59, Williams et al at col.2:3-62, 4:40-53 and 5:43-55 and Schranz et al at col.3:3-8, 6:1-9. Since the above references are related to bleach-fixing compositions containing the same requisite chemical ingredients, the well known additives and their relative proportions in the concentrating and diluting forms, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make or use the same or essentially the same bleach-fixing composition for the same or essentially the same bleaching and fixing result. Applicants should show or provide an evidence to the contrary for a patentability of the instantly claimed invention. It is also conventional or well known in the art to make and use the diluting bleach-fixing composition, evidence can be seen in at least Meckl et al, Ohkubo et al, Williams et al and Schranz et al (Please see the citations at columns or pages on the

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record above). It is also conventional or well known in the art to make and obtain a concentrating bleach-fixing composition by using less water , adding more chemical ingredients. Evidence can be seen Papai as cited above. Applicants should show or provide an evidence to the contrary.

V. Applicants claim a foreign priority. It is acknowledged and given a limited value unless applicants (1) clearly and precisely point out by page and line to show each of the claimed embodiments from (2) a single English language translation of a priority document to overcome the provisionally applied allowed application Serial No. 09/715,612 which is equivalent to WO 01/50196 as submitted by applicants .

VI. Any inquiry concerning this communication should be directed to H.V.Le at telephone No. (703)308-2295 or the Group receptionist at telephone No. (703)308-0661 and rightfax No. (703)746-7172 to the computer and printer in my office. The best time to contact me is from about 7:30 AM. to about 4:30 PM. E.T. from Monday to Thursday that may also include most of Friday.

HVL.06/17/02

HOA VAN LE
PRIMARY EXAMINER

Hoa Van Le